

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DAN G. VERHAAG, SR., a single  
person, and WAYNE and ROBERTA  
VERHAAG, a marital community,

Plaintiffs,

v.

STEVENS COUNTY, et al.,

Defendants.

No. CV-11-277-LRS

**ORDER OF DISMISSAL**

The *pro se* Plaintiffs have been allowed to file their Complaint *in forma pauperis* subject to review by the undersigned for legal sufficiency. (ECF No. 5).

It is not apparent there is federal subject matter jurisdiction to adjudicate the asserted dispute. For federal question jurisdiction to exist, Plaintiff's action must arise under the Constitution, laws, or treaties of the United States. 28 U.S.C. Section 1331. The seven claims for relief listed by Plaintiffs in their Complaint (ECF No. 6) are all based on common law or Washington statutory law (Consumer Protection Act, RCW Chapter 19.86).<sup>1</sup> In conjunction with Plaintiffs' claim for fraud, there is a reference to alleged violations of "Title 43 U.S.C., Antiquities Act" and the "Congressional Ordinance of the Cadastral Survey" (ECF No. 6 at p.

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<sup>1</sup> This court is unaware of any legislation known as the "Federal Consumer Protection Act."

1 9), but this court has found no authority recognizing an express or implied civil  
2 cause of action based upon either the “Antiquities Act” or the “Congressional  
3 Ordinance of the Cadastral Survey.” The allegations of the Complaint make clear  
4 this is a boundary dispute governed by state law (common and/or statutory law).  
5 In fact, Plaintiffs’ Complaint appears to recognize as much. (ECF No. 6 at p. 8  
6 referring to “§20.12. Property boundaries- A question of state law”).

7 Federal diversity jurisdiction over Plaintiffs’ state law claims would exist  
8 only if all of the Defendants were residents of states different from those states of  
9 which the Plaintiffs are residents. Because the Plaintiffs are residents of  
10 Washington and one or more of the named Defendants are also residents of  
11 Washington, diversity does not exist. 28 U.S.C. Section 1332.

12 Accordingly, this action is *sua sponte* **DISMISSED** with prejudice pursuant  
13 to 28 U.S.C. Section 1915e(2)(B)(ii) and (iii) for lack of federal subject matter  
14 jurisdiction. Plaintiffs retain the right to file a complaint in Stevens County  
15 Superior Court. Plaintiffs’ Motion for Service by the U.S. Marshal (ECF No. 7) is  
16 **DISMISSED** as moot.

17 **IT IS SO ORDERED.** The District Executive shall enter judgment  
18 accordingly and forward copies of the judgment and this order to Plaintiffs and to  
19 counsel of record for any of the Defendants. The file shall be **CLOSED**.

20 **DATED** this 13th of October, 2011.

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22 *s/Lonny R. Suko*

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LONNY R. SUKO  
24 United States District Judge  
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